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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

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16 **UNITED STATES DISTRICT COURT**
17 **CENTRAL DISTRICT OF CALIFORNIA**

18 Jose Molina,
19 Plaintiff,

20 vs.

21 City of Maywood, Maywood-Cudahy
22 Police Department, Bruce Leflar, Paul
23 Pine, Cunningham, Menchaca, Nijland
24 and Does 1-30,

25 Defendants.

Case No. **CV08-03105 JFW**
CIVIL RIGHTS and RICO (RCx)
COMPLAINT WITH INJUNCTIVE
AND STATE LAW CLAIMS

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2 1. This is a RICO and civil rights action brought under 42 U.S.C. §1962, 42
3 U.S.C. §§1983 and 1985, and various related state laws by plaintiff against the City of
4 Maywood, the Maywood-Cudahy Police Department, and their employees individually
5 and in their official capacities, for injunctive relief and compensatory and punitive
6 damages because of a continuing systematic abuse of authority, including but not limited
7 to unlawful searches and seizures of person and property; wrongful detentions and
8 arrests, false imprisonments, malicious prosecutions, cover ups, false report writing, use
9 of excessive and unnecessary force, sexual assaults and other acts of lawlessness.
10 Plaintiff(s) first filed this action in *Gonzalez v. City of Maywood*, CV 07 3469 ODW
11 (Shx), on May 29, 2007; on January 28, 2008, the Court ordered the Plaintiffs' actions
12 be severed and refiled as a separate case.
13

JURISDICTION

14
15 2. This case is brought pursuant to 18 U.S.C. § 1961 and 42 U.S.C. §§ 1983,
16 1985 and 1986. Jurisdiction is based upon 28 U.S.C. §§ 1331 and 1343 (1-4). This
17 court also has supplemental jurisdiction over the state claims and over defendants
18 pursuant to 28 U.S.C. § 1367. Plaintiff is a victim of City of Maywood employees acting
19 under color of law and within the scope of their authority and pursuant to the policies
20 and practices of the entities.
21

VENUE

22
23 3. The claims alleged herein arose from events or omissions occurring in the
24 County of Los Angeles. Therefore, venue lies in the Central District of California. 28
25 U.S.C. 1391(b)(2).
26

PLAINTIFF

27 4. Plaintiff Pablo Camarillo is a resident of the County of Los Angeles, State of
28

1 California. At all times material to this complaint, plaintiff was a private person in the
2 State of California, United States of America.

3 **DEFENDANTS**

4 5. Plaintiff is informed and believes and thereon alleges that at all times herein
5 mentioned defendants City of Maywood, the Maywood-Cudahy Police Department, and
6 Does 1 through 5, were and are public entities duly organized and existing as such under
7 the laws of and within the State of California under the laws of the United States and the
8 laws of the State of California.

9
10 6. Plaintiff is informed and believes and thereon alleges that at all times herein
11 mentioned defendants Bruce Leflar, Paul Pine, and Does were and/or are police
12 supervisors and/or policymakers for the City of Maywood, the Maywood-Cudahy Police
13 Department and Does 6 through 15, and in such capacity were/are managers and/or chief
14 administrators and/or policy makers. The named entities, supervisors and Does are
15 responsible for, among other things, the employment, discharge, training, supervision,
16 control, assignment and discipline of all sworn and civilian personnel of their entities
17 and the formulation, promulgation, adoption, application, implementation,
18 administration, enforcement and revocation of the policies and practices of the named
19 entities and Does.

20
21 7. Plaintiff is informed and believes and thereon alleges that the actions of named
22 and Doe supervisors were committed while employed by the entities and represent the
23 customs, practices and policies of the entities. The acts herein described and
24 complained of were committed and done pursuant to policies, rules, regulations,
25 practices, customs, and/or usages [hereinafter "policies and practices"] of the entities
26 and were created and enforced by the managers and/or supervisors and/or policy makers.

27
28 8. Plaintiff is informed and believes and thereon alleges that the defendants

1 Cunningham, Menchaca, Nijland and Does are individual officers or agents of the City
2 of Maywood and/or the Maywood-Cudahy Police Department and/or others at the times
3 of the acts herein complained of.

4 9. The true names and capacities of defendants Does 1-30 are presently unknown
5 to plaintiff; who therefore sues each of these defendants by such fictitious names; but
6 upon ascertaining the true identity and/or liability of a defendant Doe, plaintiff will
7 amend this Complaint or seek leave to do so by inserting the true name in lieu of the
8 fictitious name. Plaintiff is informed and believes and thereon alleges that each
9 defendant Doe herein is in some manner responsible for the injuries and damages herein
10 complained of.

12 **INCORPORATION**

13 10. The above paragraphs are hereby repeated, realleged and incorporated by this
14 reference in each cause of action.

15 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

16 11. On or about September 4, 2006, Maywood/Cudahy Police Officers
17 Cunningham, Menchaca, Nijland and other unknown officers wrongfully arrested Jose
18 Molina at 5106 1/4 Live Oak Street in the city of Cudahy, California and wrongfully
19 assaulted, battered, threatened and, pursuant to defendants' code of silence and
20 conspiracy to obstruct justice, prepared false official reports for the purpose of covering
21 up their wrongful actions, preventing Plaintiff from obtaining redress for the wrongs
22 committed against Plaintiff and maliciously prosecuting Plaintiff. The force used upon
23 Mr. Molina included being thrown to the ground, having his face dragged on the ground,
24 and being struck in the face and ribs while his arms were held down. Supervising Sgt.
25 Nijland was present for and observed and/or participated in the above-described
26 conduct. Plaintiff was treated at St. Francis Medical Center for an elbow fracture and
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1 abrasions. Plaintiff is informed and believes and thereon alleges that defendants
2 committed these wrongful acts because they believed in the existence of and actively
3 participated in the code of silence in the Maywood/Cudahy Police Department allowing
4 them to engage in wrongful conduct and obstruct justice with impunity.

5 12. Plaintiff is informed and believes and thereon alleges that defendants'
6 wrongful conduct included but is not limited to fraud, fraud by wire, obstruction of
7 justice, kidnaping and bribery.

8 13. Plaintiff is informed and believes there are numerous other similar victims
9 of defendants' wrongful acts who are afraid to seek, and/or unable to seek redress
10 because of their reasonable fears of retaliation, and/or because they are recent
11 immigrants who are reasonably concerned about the lawfulness of their status, and/or
12 because they are unable to find representation.

13 14. Plaintiff complied with the provisions of the California Tort Claims Act.

14
15 **The Maywood Police Department**

16 15. Plaintiff is informed and believes and thereon alleges that the
17 Maywood-Cudahy Police Department has for years been a department composed of
18 persons not conforming their conduct to the requirements of the law, or to established
19 standards of proper police practices.

20 16. Plaintiff is informed and believes and thereon alleges that the defendants,
21 officers and supervisors within the Maywood-Cudahy Police Department, invidiously
22 singled out, targeted and violated the rights of recent immigrants and/or persons
23 defendants perceived to be recent immigrants because defendants knew that recent
24 immigrants were easy victims, afraid to exercise their rights, and readily subject to
25 retaliation if they attempted to exercise their rights.

26 17. Plaintiff is informed and believes and thereon alleges that the violations of
27
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1 individuals' rights by Maywood-Cudahy officers occurred not because of a few "bad
2 apples" but is instead the result of a culture of lawlessness permeating the entities and
3 constituting and/or proximately caused by their routine practices, including a code of
4 silence and conspiracy to obstruct justice.

5 18. Plaintiff is informed and believes and thereon alleges that the
6 Maywood-Cudahy police department regularly hires police officers who have been
7 pushed out of other law enforcement agencies for crimes or serious misconduct,
8 including but not limited to: A former Los Angeles County sheriff's deputy terminated
9 for abusing jail inmates; a onetime Los Angeles Police Department officer fired for
10 intimidating a witness; and an ex-Huntington Park officer charged with negligently
11 shooting a handgun and driving drunk.

12 19. Plaintiff is informed and believes and thereon alleges, based in part upon
13 allegations contained in a Superior Court complaint filed by Maywood-Cudahy Officer
14 Pablo Cunningham, one of the named defendants in this action (and in many other
15 federal civil rights actions, as alleged below), that supervisors required officers to
16 "engage in racial profiling and quotas," and that Cunningham was "threatened by [
17 Police Chief Bruce] Leflar with loss of his job after he refused to engage in racial
18 profiling." Plaintiff is informed and believes that Cunningham was fired by the
19 Maywood-Cudahy Police Department and then rehired because he threatened to expose
20 improprieties within the department.

21 20. Plaintiff is informed and believes and thereon alleges, as pleaded by
22 Defendant Cunningham his Superior Court complaint, that defendants covered up
23 misconduct including excessive force, promoted a code of silence and conspiracy to
24 obstruct justice, hired people unfit to be officers (for improper reasons, including but not
25 limited to their connections to other City officials), extorted people for sex, and took
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1 kickbacks and bribes.

2 21. Plaintiff is informed and believes and thereon alleges that official public
3 records document that Pine resided in an apartment owned by the proprietors of a tow
4 yard. Plaintiff is informed and believes that the tow yard owner is Maywood Club Tow.

5 22. Plaintiff is informed and believes that Pine was permitted to live in the
6 apartment as a quid pro quo for Pine's assistance in causing the towing, impoundment,
7 and sale of vehicles, for the illicit gain of Pine, the City of Maywood, the
8 Maywood-Cudahy Police Department, Does, and others.

9 23. Plaintiff is informed and believes and thereon alleges that Maywood Club
10 Tow and/or its owners and/or Does gave money and/or things of value to defendants as
11 a quid pro quo for the assistance and cooperation of defendants in causing the towing,
12 impoundment, and sale of vehicles.

13 24. Plaintiff is informed and believes that governing officials of the City of
14 Maywood received money and/or things of value from Maywood City Tow and/or its
15 owners, and/or Does as a quid pro quo for, among other things, starting, continuing,
16 implementing and/or protecting defendants' illicit vehicle towing scheme.

17 25. Plaintiff is informed and believes that the Cities of Maywood and Cudahy
18 and the Maywood-Cudahy Police Department did a land-office business with Maywood
19 Club Tow, towing, impounding, confiscating, and selling vehicles, and reaping huge
20 profits in doing so, and that Pine and other defendants were personally involved in this
21 illicit, fraudulent and criminal practice, including the conduct of supposed hearings to
22 determine whether vehicles should be returned to their owners. The involvement of
23 defendants including Pine in the hearings made them unfair and deprived vehicle owners
24 of due process of law.

25 26. Plaintiff is informed and believes and thereon alleges that existence of graft
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1 and corruption, and the knowledge of the graft and corruption, within the
2 Maywood-Cudahy Police Department and the City of Maywood, including but not
3 limited to the illicit, fraudulent and criminal scheme to tow, impound and sell vehicles,
4 made it difficult and/or impossible for any supervisor to exercise meaningful
5 supervision and/or to discipline officers who abused people and violated the law, for
6 fear that officers would blow the whistle on the corruption and nepotism including but
7 not limited to the vehicle towing scheme, if any meaningful discipline were threatened
8 or imposed and proximately caused, fostered and contributed to the code of silence and
9 conspiracy to obstruct justice within the department.
10

11 27. Plaintiff is informed and believes that the code of silence and defendants'
12 conspiracy to obstruct justice, and an absence of meaningful supervision and discipline,
13 was each a proximate cause of defendants' violations of Plaintiff's rights.

14 28. Plaintiff is informed and believes and thereon alleges that the
15 Maywood-Cudahy Police Department does not have adequate procedures to supervise
16 and/or discipline its employees, including but not limited to the following:
17

18 a. Inadequate reporting requirements, including but not limited to
19 inadequate use-of-force reporting;

20 b. Inadequate procedures for documenting and investigating citizens'
21 complaints, including but not limited to refusing to accept citizens' complaints,
22 failing adequately to documents citizens' complaints, failing to investigate
23 citizens' complaints, and failing to respond to court orders requiring defendants
24 to disclose citizens' complaints.

25 29. Failures by all the supervisor, manager and policy-making defendants to
26 provide oversight over the Maywood-Cudahy police, to make them follow the
27 requirements of the Constitution, and/or to stop officers from making false charges
28

1 against innocent persons and lying to support false charges, among other things, make
2 those defendants liable to plaintiffs.

3 30. Plaintiff is informed and believes that all the injunctive relief prayed for in
4 this complaint is necessary to stop the wide-scale violation of peoples' rights by
5 defendants.

6 **Scope and Nature of Allegations**

7
8 31. Plaintiff is informed and believes and thereupon alleges that officials,
9 supervisors, policy makers and other individuals with the authority to set or modify
10 municipal and/or departmental policy, de jure or de facto, of Defendant City of
11 Maywood, participated in, approved of, ratified and/or failed to prevent the acts by
12 Defendants City of Maywood, Maywood-Cudahy Police Department, Bruce Leflar, Paul
13 Pine, Cunningham and Does 1-30, complained of by Plaintiff.

14 32. Plaintiff is informed and believes and thereon alleges that at all times herein
15 mentioned, each of the defendants; including officials, supervisors, watch commanders
16 and other policy makers from Defendant City of Maywood; was the agent, employee or
17 co-conspirator of one other, some, or all of their Co-defendants. Plaintiff is informed,
18 believes and thereupon alleges that each of the defendants, acting individually, and in
19 concert with each other, engaged in a common plan wrongfully to deprive Plaintiff of
20 his rights to: security in Plaintiff's person, property and effects, freedom from
21 unreasonable searches and seizures, equal protection and due process of law, and of the
22 right to seek redress and obtain compensation for the wrongs committed against
23 Plaintiff.

24
25 33. In doing each and all of the things herein mentioned, or neglecting or
26 intentionally failing to rectify said misconduct, each and all defendants were acting
27 pursuant to a de facto policy and within the scope of such agency, employment and
28

1 conspiracy and with full permission, knowledge, approval, ratification and support of
2 each other.

3 **Damages**

4 34. By reason of the aforementioned acts of defendants, and each of them,
5 Plaintiff was injured in Plaintiff's health, strength and activity, sustained great mental
6 pain, suffering and shock to Plaintiff's nervous systems, torment, anxiety, anguish,
7 humiliation and severe emotional distress, all to Plaintiff's damage in an amount
8 according to proof at trial. As a proximate result of the foregoing wrongful acts of
9 defendants, and each of them, property belonging to Plaintiff was damaged and
10 destroyed in an amount according to proof.

12 35. Plaintiff is informed and believes and thereon alleges that, by reason of the
13 aforementioned acts of defendants and each of them, Plaintiff was and/or will in the
14 future be required to receive hospital, medical, doctor, nursing, dental and psychological
15 care and treatment, and by reason thereof, will incur expenses related thereto in an
16 amount according to proof at trial.

18 36. By reason of defendants' wrongful acts, Plaintiff was injured in Plaintiff's
19 businesses and/or property, including but not limited to being unable to work and earan
20 money, and Plaintiff will in the future be injured in Plaintiff's business and/or property
21 by sustaining a loss and impairment of earnings and earning capacity, in an amount
22 according to proof at trial. By reason of defendants' code of silence and conspiracy to
23 obstruct justice, defendants have damaged, impaired and reduced the value of Plaintiff's
24 property interests, including but not limited to Plaintiff's property interest in his right
25 and/or causes of action to obtain redress and compensation for the wrongs committed
26 against Plaintiff.

27 37. Defendants acts were done and committed by each individual defendant
28

1 knowingly, deliberately and maliciously with the intent to oppress, injure and harass
 2 Plaintiff (with the exception of the claims by Plaintiff based on negligence) and with
 3 reckless indifference to Plaintiff's civil rights, personal security and safety, and by
 4 reason thereof, Plaintiff prays for punitive and exemplary damages from and against
 5 individual defendants and each of them in an amount according to proof at trial.

6 **CLAIMS FOR RELIEF**

7 **FIRST CLAIM FOR RELIEF** 8 **BY PLAINTIFF AGAINST ALL DEFENDANTS** 9 **(Violation of RICO Statute - 18 U.S.C. §§ 1962(c), (d))**

10 38. This cause of action is brought by Plaintiff for treble damages for injury to
 11 his business or property including but not limited to lost employment and accrued
 12 interest resulting from the conduct alleged herein, which violates the provisions of 18
 13 U.S.C. §§ 1961-1968 (hereafter "RICO").
 14

15 39. The following constitute an enterprise within the meaning of RICO generally
 16 and 18 U.S.C. § 1961(4) specifically:

- 17 a. The Maywood-Cudahy Police Department;
- 18 b. The City of Maywood;
- 19 c. Maywood Club Towing Company;
- 20 d. The Association in Fact of defendants City of Maywood, Maywood-
 21 Cudahy Police Department, Maywood Club Towing Company ("the AIF
 22 Enterprise").
 23

24 40. Plaintiff is informed and believes and thereon alleges that each enterprise
 25 alleged herein is an entity distinct from the pattern of racketeering activity alleged
 26 herein; is or was an ongoing organization, formal or informal; and functions or
 27 functioned as a continuing unit, to wit:
 28

1 a. The City of Maywood is a public entity with a formal structure and
2 capacity engaging in a wide range of activities, only part of which entails the
3 pattern of racketeering activity alleged in this complaint. The defendants charged
4 with operating it under 42 U.S.C. § 1962 (c) were animated by, among other
5 things, engaging in bribery, obstruction of justice, and fraud.

6 b. The Maywood-Cudahy Police Department is a subdivision of the City
7 of Maywood and City of Cudahy whose charge is enforcement of the laws of the
8 State of California and the Cities of Maywood and Cudahy, in which capacity it
9 has a formal structure and engages in a wide range of activities, only part of
10 which entails the pattern of racketeering activity alleged in this complaint. The
11 defendants charged with operating it under 42 U.S.C. § 1962 (c) were animated
12 by, among other things, bribery, extortion, obstruction of justice, and kidnaping.

13 c. Maywood Club Towing Company is a formally organized business
14 entity engaged in the business of towing and impounding vehicles under a variety
15 of circumstances, only part of which entails the pattern of racketeering activity
16 alleged in this complaint. The defendants charged with operating it under 42
17 U.S.C. § 1962 (c) were animated by, among other things, the common purpose of
18 unlawfully impounding vehicles in order to collect and receive the illegal charges
19 resulting from the impound, and implemented the illegal scheme by mail fraud
20 and bribery.

21 d. The AIF Enterprise had an ascertainable structure, comprised of the
22 Maywood-Cudahy Police Department, Maywood Club Towing Company, and the
23 key individuals who directed the enterprise's unlawful activities which included
24 but are not limited to Pine and Does. This structure was distinct from the pattern
25 of racketeering activity in that the enterprise's activities encompassed both lawful
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27
28

1 and unlawful activities. The AIF Enterprise's associates were animated by
2 common purposes, including but not limited to unlawfully and fraudulently
3 impounding vehicles to collect and receive the illegal charges resulting from the
4 impound and receive kickbacks, and to cover up and conceal their activities by
5 obstructing justice in state and federal civil and criminal proceedings by means
6 of a code of silence. The AIF Enterprise functioned as a continuing unit with
7 continuity in both structure and personnel.
8

9 41. The activities of the enterprises affect interstate commerce in numerous ways,
10 including but not limited to: 1) the use of interstate mail, telephone and wires (including
11 transmission and dissemination of false arrests and false criminal charges); 2) the
12 purchase of materials for use in the enterprises which materials were in the stream of
13 interstate commerce; 3) the provision of federal funds to the Maywood-Cudahy Police
14 Department, received through the stream of interstate commerce; 4) oversight by federal
15 governmental entities of various of the activities of the Maywood-Cudahy Police
16 Department and/or the City of Maywood, involving interstate travel and the expenditure
17 of funds through the stream of interstate commerce; 5) the interstate travel of various
18 of the owners of impounded vehicles to retrieve their impounded vehicles or attempt to
19 do so; 6) the travel, paid from proceeds of the pattern of racketeering activity alleged
20 herein, of members of the Maywood-Cudahy Police Department from California to Las
21 Vegas; 7) the purchase of tow trucks, and gasoline and equipment for said trucks, used
22 in furtherance of the pattern of racketeering activity alleged herein that reached the
23 purchasers through the stream of interstate commerce.
24

25 42. Defendants' racketeering activities included but are not limited to the
26 following:
27

28 a. Condoning and encouraging the fabrication of evidence including but

1 not limited to the filing of materially false police reports in tended to be used in
2 state and federal civil and criminal proceedings;

3 b. Condoning and encouraging a "code of silence," which keeps and/or
4 dissuades employees from reporting the misdeeds of fellow employees, and/or
5 causes and/or facilitates the preparation, submission and use of false official
6 reports, and/or making false official statements, and/or perjury; and which thereby
7 obstructs justice in official proceedings, including but not limited to state and
8 federal criminal investigations and proceedings, and/or state and federal civil
9 investigations and proceedings;
10

11 c. Condoning and encouraging officers in the belief that their failure or
12 refusal to participate in the "code of silence" or to cover up or conceal the
13 misconduct of other officers will cause them to be ostracized by other officers,
14 will adversely affect their ability to get support from other officers in dangerous
15 and/or life-threatening situations in the field and will adversely affect their
16 opportunities for promotion and other employment benefits, and which thereby
17 obstructs justice in official proceedings, including but not limited to state and
18 federal criminal investigations and proceedings, and/or state and federal civil
19 investigations and proceedings;
20

21 d. Condoning and encouraging the acceptance of "gratuities," "kickbacks,"
22 and/or other wrongful and/or illicit compensation, which has the effect of
23 strengthening defendants' code of silence and conspiracy to obstruct justice by
24 making all department employees, including but not limited to supervisors,
25 vulnerable to accusations of misconduct and unable and/or unwilling to
26 accurately report misconduct, and/or to supervise and/or discipline subordinates.
27

28 43. Plaintiff is informed and believes that defendants' code of silence and

1 conspiracy to obstruct justice is and was operative in many state and federal
 2 proceedings, including but not limited to the following federal cases:

3 a. *Jose Rodriguez and Guillermo De La Torre v. City of Maywood*, CV
 4 99-9898 CBM (Ex);

5 b. *Ortiz v. City of Maywood, Pablo Cunningham, et.al.*, CV 06-3622 DSF
 6 (FMOx);

7 c. *Flores v. City of Maywood, Pablo Cunningham*, CV 04-7565 GPS (Ex)

8 d. *Pacheco v. City of Maywood, Pablo Cunningham, et.al.*, CV 06-7613
 9 PSG (FFMx);

10 e. *Cruz v. City of Maywood, Paul [Pablo] Cunningham*, CV 07-1999 PSG
 11 (JCx);

12 f. *Sena v. City of Maywood, et.al.*, CV 07-1724 AHM (Jcx);

13 g. *Trujillo v. City of Maywood, et.al.*, CV 06-2738 PA (VBKx);

14 h. *Gonzalez v. City of Maywood, et.al.*, CV 05-6953 RJK (VBKx);

15 i. *Anderson (Estate) v. City of Maywood, et.al.*, CV 04-10119 RGK (Shx);

16 j. *Densmore v. Maywood, et.al.*, CV 06-3535 PSG (RZx).

17
 18
 19 **SECOND CAUSE OF ACTION**
 20 **(Violation of Civil Rights - 42 U.S.C. § 1983)**
 21 ***Monell and Supervisorial Liability***

22 44. Plaintiff is informed and believes and thereon alleges that at all times herein
 23 mentioned, above named defendants with deliberate indifference, gross negligence
 24 and/or reckless disregard for the safety, security and constitutional and statutory rights
 25 of Plaintiff maintained, enforced, tolerated, permitted, acquiesced in, and/or applied
 26 *inter alia* policies and practices which included directing and controlling the unlawful
 27 acts complained of herein.

28 45. Said defendants and each of them, acting under color of state law, have

1 deprived Plaintiff of rights, privileges, and immunities secured by the Constitution and
2 laws of the United States, in particular by the First, Fourth, Fourteenth Amendments to
3 the United States Constitution by *inter alia* maintaining, enforcing, tolerating,
4 permitting, acquiescing and, and/or applying the policies and practices set forth above.
5 As a direct and proximate result of those policies and practices, Plaintiff sustained injury
6 and damage as described herein.
7

8 46. Plaintiff is informed and believes and thereon alleges that the supervisorial
9 defendants ordered, authorized, acquiesced in, tolerated, or permitted other defendants
10 herein to engage in the unlawful and unconstitutional actions, policies, and practices set
11 forth above. Defendants' conduct alleged herein constitutes a pattern of illicit law
12 enforcement behavior, and statutory and constitutional violations based either on a
13 deliberate plan by defendants or on defendants' deliberate indifference, gross
14 negligence, or reckless disregard for the safety, security and constitutional and statutory
15 rights of Plaintiff which violations include:
16

17 a. Stopping, detaining, and/or arresting people and/or entering homes,
18 and/or searching and/or seizing property and people, without required warrants,
19 reasonable suspicion and/or probable cause;

20 b. Using unreasonable and/or excessive force;

21 c. Allowing and/or encouraging employees to brutalize, hurt and/or injure
22 members of the public, by failing to require effective use-of-force training,
23 supervision, discipline and reporting, including but not limited to not requiring
24 employees to report uses of force, by permitting and/or encouraging false and/or
25 misleading and/or incomplete reporting, and/or by failing adequately to monitor
26 employee uses of force;
27

28 d. Condoning, tolerating and/or acquiescing in officers' engaging in racist

1 conduct and/or racially motivated attacks on minority members of the community,
2 and/or using racist speech when speaking with minorities and/or denigrating the
3 race and/or nationality of minority members of the community;

4 e. Condoning, tolerating and/or acquiescing in officers' sexually abusing
5 members of the community, including minors;

6 f. Failing adequately to investigate incidents involving the use of
7 unreasonable force and/or other misconduct;

8 g. Conducting investigations in such a manner as to conceal misconduct,
9 including but not limited to using investigative techniques and procedures known
10 to have that effect;

11 h. Condoning and encouraging the fabrication of evidence including but
12 not limited to the filing of materially false police reports;

13 i. Condoning and encouraging a "code of silence," which keeps and/or
14 dissuades employees from reporting the misdeeds of fellow employees, and/or
15 causes and/or facilitates the preparation, submission and use of false official
16 reports, and/or making false official statements, and/or perjury; and which thereby
17 obstructs justice in official proceedings, including but not limited to state and
18 federal criminal investigations and proceedings, and/or state and federal civil
19 investigations and proceedings;

20 j. Condoning and encouraging officers in the belief that their failure or
21 refusal to participate in the "code of silence" or to cover up or conceal the
22 misconduct of other officers will cause them to be ostracized by other officers,
23 will adversely affect their ability to get support from other officers in dangerous
24 and/or life-threatening situations in the field and will adversely affect their
25 opportunities for promotion and other employment benefits, and which thereby
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1 obstructs justice in official proceedings, including but not limited to state and
2 federal criminal investigations and proceedings, and/or state and federal civil
3 investigations and proceedings;

4 k. Condoning and encouraging the acceptance of "gratuities," "kickbacks,"
5 and/or other wrongful and/or illicit compensation, which has the effect of making
6 supervisors within the department vulnerable to accusations of misconduct and
7 unable and/or unwilling to effectively supervise and/or discipline subordinates;

8 l. Hiring individuals who are unsuited for police work, including but not
9 limited to hiring individuals who have been fired or disciplined by other law
10 enforcement agencies because they engaged in misconduct; and/or failing to
11 conduct appropriate and/or required background investigations.

12 47. Defendants and each of them, acting under color of state law, have deprived
13 Plaintiff of rights, privileges, and immunities secured by the Constitution and laws of
14 the United States, in particular by the First, Fourth, and Fourteenth Amendments to the
15 United States Constitution by *inter alia* maintaining, enforcing, tolerating, permitting,
16 acquiescing and, and/or applying the policies and practices set forth above. As a direct
17 and proximate result of those policies and practices, Plaintiff has sustained injury and
18 damage as described hereinafter.

19 48. Plaintiff is informed and believes and thereon alleges that defendant entities
20 and supervisorial defendants ordered, authorized, acquiesced in, tolerated, or permitted
21 other defendants herein to engage in the unlawful and unconstitutional actions, policies,
22 and practices set forth above. Defendants' conduct alleged herein constitutes a pattern
23 of intimidation, illicit law enforcement behavior, and statutory and constitutional
24 violations based either on a deliberate plan by defendants or on defendants' deliberate
25 indifference, gross negligence, or reckless disregard for the safety, security and
26
27
28

1 constitutional and statutory rights of Plaintiff.

2 **THIRD CAUSE OF ACTION**
 3 **(Violation of Civil Rights - 42 U.S.C. § 1983)**
 4 **Against All Individually Named Defendants**

5 49. Defendants and each of them, acting under color of state law, did without
 6 probable cause and by use of excessive force unlawfully detain, arrest, batter, search,
 7 molest and write false reports about Plaintiff, and did do all of the above in a
 8 conspiratorial manner for the purpose of illegally obtaining criminal conviction(s)
 9 against Plaintiff and to conceal their own wrongdoing and did also do so to intimidate
 10 Plaintiff's witness(es) in said criminal prosecutions for the same improper purposes, all
 11 of which were intended with deliberate indifference of and reckless disregard for
 12 Plaintiff's constitutional rights under the First, Fourth and Fourteenth Amendments to
 13 the United States Constitution. As a direct and proximate result of defendants' acts,
 14 Plaintiff sustained injury and damage as set forth herein.

15 **FOURTH CAUSE OF ACTION**
 16 **(Violation of 42 U.S.C. §1985(2))**
 17 **Against All Individually Named Defendants**

18 50. Defendants, and two or more of them, in the State of California, County of
 19 Los Angeles, and City of Maywood-Cudahy, by reason of Defendants' animus against
 20 minorities, including Plaintiff's Latino heritage and invidious animus, conspired
 21 together to act and to fail and omit to act as hereinbefore alleged, for the purpose of (I)
 22 impeding, hindering, obstructing, and defeating the due course of justice in the State of
 23 California and County of Los Angeles, (ii) to deny Plaintiff his right to free speech, (iv)
 24 to deny equal protection of the laws to Plaintiff and (v) to subject Plaintiff's persons and
 25 property to unlawful search and seizure thereby depriving Plaintiff of immunities
 26 secured by the Constitution and the laws of the United States, including the First, Fourth
 27 and Fourteenth Amendments to the United States Constitution, by, *inter alia*, ordering,
 28

1 authorizing, maintaining, enforcing, tolerating, ratifying, permitting, acquiescing in,
2 and/or applying the policies and practices set forth hereinabove. Defendants' conspiracy
3 was and is motivated by animus directed against Plaintiff because of his race, color or
4 national origin, and/or by the race, color, or national origin of persons with whom they
5 associated, and/or by other class-based, invidiously discriminatory animus directed
6 against Plaintiff. In furtherance of the conspiracy one or more of the defendants
7 committed one or more of the overt acts set forth hereinabove which did in fact deprive
8 Plaintiff of equal rights, privileges or immunities.

10 51. Defendants, and each of them, purposefully, under color of law, planned and
11 conspired to deny Plaintiff equal protection of the laws in the following respects:

- 12 a. to deny the right to be free from unreasonable search and seizure;
- 13 b. to deny the right not to be deprived of life, property or liberty without
- 14 due process of law;
- 15 c. to deny the right of free speech;
- 16 d. to be free from use of excessive force.

17 52. By virtue of the foregoing, defendants, and each of them, violated 42 U.S.C.
18 §1985(2).

19 53. As a direct and proximate result of the foregoing, Plaintiff has been damaged
20 as recited above and demand and is entitled to the damages recited above, including, but
21 not limited to, general and punitive damages (except entities) and attorney's fees.

22
23 **FIFTH CAUSE OF ACTION**
24 **(Violation of 42 U.S.C. §1985(3))**
Against All Individually Named Defendants

25 54. By virtue of the foregoing, Defendants, and two or more of them, conspired
26 for the purpose of:

- 27 a. depriving Plaintiff of (1) equal protection of the law; and (2) liberty and
- 28

1 property without due process of law.

2 55. Defendants, and each of them, did and caused to be done, an act or acts in
3 furtherance of the object of the conspiracy, whereby Plaintiff was deprived of the rights
4 and privileges as set forth above.

5 56. As a direct and proximate result of the foregoing, Plaintiff is entitled to and
6 demands damages against defendants, jointly and severally, as recited in the First and
7 Second Causes of Action, including, but not limited to, general and punitive damages
8 (except entities) and attorneys fees.
9

10 **SIXTH CAUSE OF ACTION**
11 **(California Constitution, Article I, §§ 1, 7, and 13)**
12 **Against All Defendants**

13 57. The conduct of each defendant in detaining, searching, arresting, and
14 assaulting Plaintiff and in threatening and in doing or failing to do the other wrongful
15 acts herein alleged was done for the purpose of interfering with and attempting to
16 interfere with Plaintiff's rights to freedom of expression, to be free from unreasonable
17 invasions of their privacy and unreasonable search and seizure, and to be accorded due
18 process and equal protection under Article I, §§ 1, 7 and 13 of the California
19 Constitution.

20 **SEVENTH CAUSE OF ACTION**
21 **(California Civil Code §52.1)**
22 **Against All Defendants**

23 58. The conduct of each defendant in detaining, searching, and assaulting
24 Plaintiff and in threatening and in doing or failing to do the other wrongful acts herein
25 alleged was done for the purpose of interfering with and attempting to interfere with
26 Plaintiff's rights under the First, Fourth and Fourteenth Amendments and Plaintiff's right
27 to freedom of expression, to be free from unreasonable invasions of his privacy and
28 unreasonable search and seizure and accorded due process and equal protection under

1 Article I, §§ 1, 7, 12, and 13 of the California Constitution, and for that reason violated
2 Plaintiff's rights under California Civil Code Section 52.1(b). Plaintiff is informed and
3 believes and thereon alleges that the defendants' wrongful acts were done maliciously
4 and criminally and for the purpose of inflicting injury on Plaintiff.

5 59. As the proximate cause of defendants' and each of their conduct as
6 hereinbefore alleged, Plaintiff has been damaged in an amount not presently ascertained,
7 but subject to proof at trial.

8 60. Plaintiff is informed and believes and thereon alleges that Defendants' and
9 each of their conduct was malicious, willful, fraudulent and oppressive, done with a
10 conscious disregard for Plaintiff's rights and with the intent to injure Plaintiff, thereby
11 justifying the award of exemplary damages (except for entities) in a sum to be
12 determined according to proof.
13

14 **EIGHTH CAUSE OF ACTION**
15 **(California Civil Code Section 51.7)**
16 **Against All Defendants**

17 61. Plaintiff is informed and believes and thereon alleges that the conduct of each
18 defendant in using force upon and injuring Plaintiff and in threatening and attempting
19 to use force upon and injure Plaintiff, and in doing or failing to do the other wrongful
20 acts herein alleged was motivated by defendants' invidious racial and/or ethnic and/or
21 other impermissible animus toward Plaintiff, and for that reason violated Plaintiff's
22 rights under California Civil Code § 51.7. Plaintiff is informed and believes and thereon
23 alleges that the defendants' wrongful acts were done maliciously and criminally and for
24 the purpose of inflicting injury on Plaintiff.

25 **NINTH CAUSE OF ACTION**
26 **(Assault and Battery)**
27 **Against all Defendants**

28 62. At the date, time and location, defendants, and each of them, as either

1 employees, supervisors or employees in the course and scope of their duties
2 intentionally and maliciously abused Plaintiff by reason of the acts alleged herein above
3 causing Plaintiff, without provocation, necessity or lawful justification, to suffer said
4 violations of their civil rights.

5 63. As a proximate result of the acts of defendants, and each of them, as herein
6 alleged, Plaintiff was compelled to expend money all to their damage in an amount
7 according to proof.

8 64. As a proximate result of the acts of defendants, and each of them, Plaintiff
9 was injured in health, strength and activity, sustaining injuries to his body and shock
10 and injury to his nervous systems and persons; all of which injuries have caused Plaintiff
11 to suffer severe pain and mental anguish.

12 65. As a further proximate result of the acts of defendants, and each of them,
13 Plaintiff was required to and/or did employ physicians and surgeons for medical
14 examination, treatment and care of injuries, and did incur medical and incidental
15 expenses. Plaintiff did incur and will incur further treatment, the exact amount of which
16 is unknown at this time.

17 66. As a further proximate result of the acts of defendants, Plaintiff was
18 prevented from attending to his usual occupations and thereby lost earnings and income.

19 67. The acts of defendants, and each of them, were willful, malicious and
20 oppressive, in conscious disregard of Plaintiff's known rights and thereby justify the
21 awarding of exemplary damages (except entities) according to proof.

22
23
24 **TENTH CAUSE OF ACTION**
25 **(Intentional Infliction of Emotional Distress)**
26 **Against all Defendants**

27 68. Plaintiff was entitled to the due care, service and protection of the entities and
28 their officers and medical staff.

1 69. On or about the dates alleged above and thereafter, Defendants caused the
2 Plaintiff to be unlawfully detained, seized, beaten and/or otherwise abused without
3 reasonable cause or justification.

4 70. In doing the aforementioned acts, defendants' conduct was intentional,
5 outrageous, malicious, and done for the specific purpose of causing Plaintiff to suffer
6 extreme emotional distress, indignity, fear, anxiety, and mental anguish.

7
8 71. As a direct and proximate result of the foregoing, Plaintiff has suffered, and
9 continue to suffer, severe mental, emotional and physical distress and are entitled to and
10 demands damages against defendants.

11 **ELEVENTH CAUSE OF ACTION**
12 **(Negligent Employment Civil Code §1714)**
13 **Against Entities and Supervisor Defendants**

14 72. Defendant entities and supervisor defendants knew or in the exercise of due
15 care should have known, that individually named defendants and Does 1 Through 30
16 inclusive, and each of them, had a propensity, character trait, and practice for
17 dishonesty, deception, abuse of authority, harassment, and violence without justification
18 against Plaintiff and other members of the public.

19 73. At all times material herein, said Defendant entities and supervisors knew or
20 with reasonable care should have known, that the aforescribed traits of character,
21 practices and propensities of defendants and Does 1 through 30 inclusive, and each of
22 them, made them unfit to serve as law enforcement officers.

23 74. Notwithstanding such knowledge, Defendant entities and supervisors
24 negligently and carelessly employed and retained and failed to properly supervise, train
25 and control defendants and Does 1 through 30 inclusive, and each of them, as employees
26 and assigned said defendants to duties which enabled each of them to abuse their
27 authority, including but not limited to making unlawful detentions and arrests by use of
28

1 excessive force, warrantless arrests, fabricating probable cause and crimes, causing the
2 fraudulent and malicious criminal prosecution of innocent persons while purporting to
3 act under the color of law.

4 75. As a proximate result of the negligent retention and supervision of defendant
5 entities and supervisors and each of them, Plaintiff suffered damages and injuries,
6 including but not limited to false arrests/detentions, beatings, malicious prosecutions,
7 severe mental anguish, emotional distress, severe embarrassment, financial losses, all
8 to the Plaintiff' damage in a sum according to proof.
9

10 **TWELFTH CAUSE OF ACTION**
11 **(Negligence/Civil Code § 1714))**
12 **Against All Defendants**

13 76. Plaintiff alleges that by the actions or omissions set forth above, all
14 defendants failed to use and exercise reasonable care as is required by Civil Code §
15 1714. In particular, defendants failed to exercise reasonable care in its conduct in the
16 exercise of their duties.

17 77. As a proximate result of the negligence and carelessness of defendants, and
18 each of them, Plaintiff suffered damages as alleged above in a sum according to proof.

19 **INJUNCTIVE RELIEF**

20 78. Plaintiff is informed and believes and thereon alleges that, unless enjoined,
21 as requested in the prayer, defendants will continue to engage in the unlawful acts and
22 in the policies and practices described above, in violation of the legal and constitutional
23 rights of the Plaintiff. Plaintiff face the real and immediate threat of repeated and
24 irreparable injury and continuing, present adverse effects as a result of the unlawful
25 misconduct, policies and practices of the defendants. Plaintiff has no adequate and
26 complete remedy at law.

27 ///
28

PRAYER

Wherefore, Plaintiff prays judgment against defendants and each of them, as follows:

As to each cause of action at to each Plaintiff as applicable:

1. For general damages according to proof;
2. For special damages according to proof;
3. For statutory damages under Cal. Civ. Code §§ 52(a) and/or (b), 52.1(b), California Code of Civil Procedure 1021.5, and under any other applicable statute or theory;
4. For punitive damages against each individual Defendant;
5. For attorney's fees pursuant to 42 U.S.C. §1988, California Civil Code §52.1, California Code of Civil Procedure 1021.5, and under any other applicable statute or theory;
6. For costs of suit;
7. Declaring, pursuant to 28 U.S.C. §§ 2201-2202 that the acts, policies, rules, regulations, practices, customs, and usages that the defendants engaged in as set forth above violate the legal and constitutional rights of the Plaintiff.
8. Permanently enjoining defendants and their agents, employees, and successors, and all persons in active concert or participation with defendants, from engaging in the unlawful and unconstitutional acts, policies, rules, regulations, practices, customs, and usages set forth above.
9. Placing the Maywood-Cudahy Police Department under the direct supervision and control of a receiver or special master to be appointed by the Court; directing the receiver or special master to review all existing written and unwritten policies and procedures of defendants with respect to the acts, policies, rules, regulations, practices,

1 customs, and usages set forth above; directing the receiver or special master to modify,
2 amend, or revoke, or to confirm and enforce, existing policies and procedures and to
3 establish such new or additional written policies and procedures as may be necessary
4 and proper; and directing the receiver or special master to implement and enforce
5 appropriate written policies and procedures with respect to the following subjects,
6 among others:

7
8 a. Ensuring compliance with constitutional standards governing the use of
9 firearms, the use of force, the conduct of searches, and the use of deadly force.

10 b. Providing adequate training, certification, and periodic recertification
11 of all officers in the lawful use of force, including firearms and other deadly
12 force.

13 c. Specifying departmentally approved weaponless control techniques,
14 and providing for adequate training, certification, and periodic recertification of
15 all officers in the use of such techniques.

16 d. Ensuring that members of the public injured by officers receive prompt
17 and appropriate medical care, and that their injuries are catalogued and recorded
18 in police reports and by photographs of all such injuries.

19
20 e. Requiring that all persons in custody be transported to a hospital for
21 examination and treatment by a medical doctor whenever:

22 i. the person sustains a head injury, strikes his or her head on a
23 hard object, or sustains a blow to the head, regardless of how
24 minor any such injury may appear;

25 ii. the person is choked or is subjected to any control hold
26 involving the neck, regardless of whether or not the person is
27 rendered unconscious;
28

1 iii. the person has any injuries that appear to require medical
2 attention;

3 iv. the person requests medical treatment, regardless of whether
4 or not the person has any apparent injuries.

5 f. Prohibiting the use of saps in any circumstances, and prohibiting the use
6 of head strikes and strikes to other vital areas of the body by batons or
7 flashlights, punches or kicks, except in cases where there is legal justification for
8 the use of deadly force.

9 g. Requiring that searches be conducted in a manner which inflicts the
10 least amount of damage necessary in order to conduct an adequate search; that
11 officers be required to photograph or videotape the premises before and after each
12 and every search; that officers return to their original location and condition all
13 items displaced in any search; and that the Maywood-Cudahy Police Department
14 pay for the repair or replacement of any property unnecessarily damaged or
15 destroyed in the course of any search.

16 h. Recording in writing each instance in which an officer is involved in the
17 use of force in arresting a suspect or in detaining any person, regardless of
18 whether an arrest is made.

19 i. Requiring that any officer who participates in or witnesses any incident
20 involving the use of force by an officer shall prepare and submit a departmental
21 report containing detailed information regarding the incident, including:

22 i. A full description of the actions of the suspect or member of
23 the public which made the use of force necessary;

24 ii. A full description of the specific force used or observed by
25 the officer;
26
27
28

1 iii. A full description of any injuries or complaints of injuries
2 sustained by the suspect or member of the public, including
3 photographs or videotapes of the suspect or member of the
4 public;

5 iv. A full description of any medical treatment received by and
6 any refusal of such treatment by the suspect or member of the
7 public.
8

9 j. Establishing a system that allows an immediate on-duty supervisor to
10 readily access a historical record of any officer who has used force in a period of
11 at least the last 5 years, including the identity of the officer(s) involved in the use
12 of force, the file number(s) of the report(s) in which the use of force is reported,
13 and a description of the nature of the force used (*e.g.*, "intentional head strike
14 with baton"; "accidental head strike with flashlight"); requiring periodic review
15 of such records for patterns of unjustified use of force by officers and institution
16 of disciplinary proceedings where appropriate; requiring review of such records
17 whenever a supervisor prepares a departmental performance evaluation of any
18 officer; and requiring that performance evaluations include documentation of any
19 patterns concerning the unjustified use of force.
20

21 k. Providing that, in any situation in which deadly force has been used by
22 an officer and death or serious injury has resulted, there shall be an administrative
23 review of the use of force to determine whether it was in compliance with
24 departmental policy and constitutional standards, and whether departmental
25 policy should be modified in view of the circumstances surrounding the use of
26 such force.
27

28 l. Requiring that, in departmental investigations of officer-involved

1 shootings, other use of deadly force by officers, or complaints of officer
2 misconduct:

- 3 i. all percipient witnesses (including officers) be segregated
4 from each other as soon as practicable after the incident;
5 ii. such witnesses not be permitted to discuss the incident with
6 any other witness until after all witnesses have been
7 interviewed by departmental investigators;
8 iii. such witnesses not be informed of the contents or substance
9 of the statements of other witnesses until after all witnesses
10 have been interviewed by departmental investigators; and
11 iv. all witness interviews, including interviews of involved
12 officers, be fully and completely tape-recorded.
13

14 m. Indexing by individual officer and maintaining files of complaints by
15 members of the public, Cal. Govt. Code § 910 claims, and lawsuits concerning
16 officer misconduct; adequately investigating such complaints, claims, and
17 lawsuits; and using such files to monitor the conduct of officers.
18

19 n. Requiring psychological testing and counseling of officers with a record
20 of using unreasonable or excessive force, making false arrests, filing false
21 charges, engaging in related acts of dishonesty, or engaging in racially motivated
22 misconduct.

23 o. Maintaining a promotional system which penalizes officers for instances
24 of unjustified use of firearms or unjustified use of force, violence, sexual
25 innuendo, dishonesty, racial or ethnic bias, or other misconduct.

26 p. Requiring dismissal of officers involved in instances of sexual
27 misconduct, and/or repeatedly involved in instances of unjustified use of firearms
28

1 or unjustified use of force, violence, dishonesty, racial or ethnic bias, or other
2 misconduct.

3 q. Requiring that, where an investigation discloses any improper use of
4 force by an officer, particularly improper use of force which causes serious bodily
5 injury as defined in Cal. Penal Code § 243, that matter should be referred to the
6 District Attorney's Office for consideration of filing a criminal complaint.

7
8 r. Requiring that, whenever any officer has been judicially determined to
9 have engaged in a violation of constitutional or civil rights, whenever a monetary
10 settlement has been made or a judgment has been rendered based on the use of
11 excessive force by an officer, or whenever any arrest has been made as to which
12 an officer claims to be the victim of a crime:

- 13 i. a departmental investigation be conducted, regardless of any
14 earlier investigation or the findings thereof;
- 15 ii. The investigators review all evidence introduced at trial or
16 provided to them by any person, and that they interview all
17 known witnesses including Plaintiff's trial experts, and
18 interview Plaintiff's counsel in any lawsuit alleging officer
19 misconduct;
- 20
21 iii. a full report be made to the Chief of Police and to the receiver
22 or special master with recommendations for or against
23 disciplinary or criminal sanctions against the officer.

24 s. Directing that the defendants seek tangible ways (for example, through
25 disciplinary measures) to establish the principle that racial and ethnic bias will not
26 be tolerated within the Maywood-Cudahy Police Department, and that the
27 defendants establish an adequate program of cultural awareness training and
28

1 periodic retraining to eliminate racial or ethnic stereotypes for all officers.

2 t. Directing that the defendants seek tangible ways to establish the
3 principle that gender bias and discrimination and sexual misconduct will not be
4 tolerated within the Maywood-Cudahy Police Department, and that the
5 defendants establish an adequate program of gender awareness training and
6 periodic retraining to eliminate any and all gender discrimination and sexual
7 misconduct.
8

9 10. For such other and further relief as the Court may deem proper.

10 DATED: May 12, 2008

11 **CYNTHIA ANDERSON-BARKER**
12 **ELLEN HAMMILL ELLISON**
13 **OLU ORANGE**
14 **ROBERT MANN**
15 **DONALD W. COOK**
16 **ATTORNEYS AT LAW**

17 By




18 Donald W. Cook
19 Attorneys for Plaintiff
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DEMAND FOR JURY TRIAL

Plaintiff hereby demand a jury trial.

DATED: May 12, 2008

CYNTHIA ANDERSON-BARKER
ELLEN HAMMILL ELLISON
OLU ORANGE
ROBERT MANN
DONALD W. COOK
ATTORNEYS AT LAW

By 
Donald W. Cook
Attorneys for Plaintiff